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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,002	08/29/2003	Walter A. Sawka		2001
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WALTER A. SAWKA 36 COPPER HILL PARK RINGWOOD, NJ 07456			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/605,002	SAWKA, WALTER A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gabrielle McCormick	3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Status of Claims*

1. This action is in reply to the application filed on August 29, 2003.
2. Claim 1 is currently pending and has been examined.

### *Specification*

3. The Examiner includes the following information in order to emphasize the required elements of a proper patent application. The areas in **bold** are particularly pertinent to this application.
  - (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
  - (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
  - (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
  - (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
  - (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
  - (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
    - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
    - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
  - (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and

distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

4. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

5. A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: line 6 contains the word "location". It is assumed that this is a misspelling of the word "locate". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. § 101 reads as follows:
- "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".
8. Claim1 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
9. 35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof" (emphasis added). Applicant's claim mentioned above is intended to embrace or overlap two different statutory classes of invention as set forth in 35 USC 101. The claims begin by discussing a method (ex. preamble), the body of the claim discusses the specifics of the system of the virtual computer, and subsequently the claim then alternatively refers to "said system" and "said method". "A claim of this type is precluded by the express language of 35 USC 101 which is drafted so as to set forth the statutory classes of invention in the alternative only", Ex parte Lyell (17 USPQ2d 1548).

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
12. Claim 1 recites the use of "a single, enterprise-wide, persistent memory", "enterprise-wide, persistent, logical knowledge infrastructure" for modeling business relationships; "self-aware Agents" that encapsulate data and code; "System Libraries"; and "a Real-Time Event/Logic controller".
13. Referring to the specification, the physical embodiment is described in para. [0085-86] and consists of a network of computers operating over an intranet or Internet. Without a substantive description of the system hardware requirements, one of ordinary skill in the art would be unable to make or use this invention. The "Main Memory" is a processing environment (para. [0089]). No clear, discernable infrastructure is presented with which one would be able to build this invention. Further, one is unable to glean from the specification how the infrastructure models business relationships. Agents are discussed in para. [0089-0093], however, "self-aware Agents" are presented as a concept (para. [0092]); the disclosure lacks in providing how these agents become "self-aware". "A Systems Library provides for the necessary functions..." (para. [0107]) yet the disclosure does not recite how the Systems Library provides these functions and what the "necessary functions" are. Instruction comes "from the Event/Logic Controller" (para. [0106]) but the disclosure does not illustrate what the instructions are and how they manage the execution of the agents.



14. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
15. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The Examiner finds that because claim 1 is replete with 35 U.S.C. 112 2<sup>nd</sup> paragraph indefiniteness rejections, it is difficult if not impossible to completely construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of providing art rejections even though the claim contains 35 U.S.C. 112 2<sup>nd</sup> paragraph rejections, the claims are construed and the art is applied *as much as practically possible*.
16. The claim alternatively refers to the invention as a method and as a system. This renders the claim indefinite because a method claim must provide for the steps involved with the method/process. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.
17. The phrase, "a single, enterprise-wide Persistent Address Space to uniquely identify and location enterprise data and intellectual assets" is vague and unclear. It could be interpreted to be a database, yet the choice of phrasing leaves the limitations unclear.
18. The claim recites "business processes, workflows, business rules, business metric, data resources, legacy systems and intellectual assets" that may be "tangible or intangible". These terms are vague and indefinite in that any foreseeable transaction would fall into one of these categories. The specification does not provide any real world examples of what business relationships are intended to be modeled by the invention.
19. The claim further recites a list of "strategic business initiatives" (items a-p). The specification does not disclose descriptions of these initiatives, therefore they render the claim vague and indefinite for failing to distinctly claim and point out the subject matter of the invention. Further, it is unclear whether the intent of the claim is to include all or a portion of the list of initiatives, therefore the scope of the claim cannot be properly assessed.

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over Moisa et al. (US Pub. No. 2004/0030992 hereinafter referred to as "Moisa") in view of Presley, et al. ("Engineering the virtual enterprise: An architecture-driven modeling approach". International Journal of Flexible Manufacturing Systems. Boston: Apr. 2001. Vol 13; Iss. 2; pg. 145).
22. As stated previously, it is difficult if not impossible to completely construe claim scope at this time due to the plethora of above-mentioned rejections.
23. **Claim 1:** Moisa discloses a "system and method for management of a virtual enterprise" (title). The system includes an Internet/Intranet (*network of physically dispersed, traditional computers operating as a single entity*) and various business process managed by the system (Fig. 13); an application server (*platform for enterprise computer application integration...*) that provides processing between a user machine and the database. (para. [0037]); a data network interconnected by an infrastructure (*enterprise-wide, persistent, logical knowledge infrastructure*) (para. [0044]); and a database management system for organization, storage (*a single, enterprise-wide Persistent Address Space and single, enterprise-wide, persistent memory...as a single source for all enterprise data, information, resources and intellectual assets*), retrieval and integrity of the data (*single coherent source of enterprise data, ...data duplication*). The DBMS provides instruction for data transfer. Workflow Engine (para. [0084-0085]): models the business enterprise. The "Virtual Enterprise Management System" is disclosed in para. [0087-88] as a facilitation means that provides collaboration between users by integrating business processes.



This provides the interface of computer applications to the Virtual Enterprise Computer. The system is executed in real-time (Internet) such that information is shared in real-time.

24. Moisa does not disclose the specific "business initiatives" such as Business Process Reengineering (BPR), the use of system libraries or agents.
25. Presley, however, discloses BPR (pg. 4; section 3.1); using templates to identify the process to be performed and how they should be performed (serves the role of the "system libraries") (pg. 4; section 2.2) and agent modeling, including encapsulation (pg. 7; section 4.2). It would be obvious to further expand the applications supported by Moisa's virtual enterprise with any of the applications disclosed by Presley, or others, such as recited in items a-p of Claim 1, because a platform is non-limiting in that any application could interface with the system. One of ordinary skill in the art at the time of invention would have been motivated to customize a virtual enterprise platform in such a way as to meet the specific business needs defined through business process reengineering. One of ordinary skill in the art at the time of invention would have also been motivated to expand the system of Moisa to include templates (libraries) and agents as a means of efficiently transferring data.

### ***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
27. The following U.S. patent are cited to further show the best domestically patented/published prior art found by the examiner:
  - a. U.S. Pat. No. 6,336,053 to Beatty.
  - b. U.S. Pub. No. 2003/0187670 to Hassinger et al.
28. The following non-patent literature is cited to show the best non-patent literature prior art found by the examiner:


- c. Weixuan Xu, Yiming Wei and Ying Fan. "Virtual enterprise and its intelligence management". Institute of Policy and Management, Chinese Academy of Sciences, P. O. Box 8712, Beijing 100080, People's Republic of China; 30 January 2002.
- d. Antonio Lucas Soares, Americo Lopes Azevedo and Jorge Pinho de Sousa. "Distributed planning and control systems for the virtual enterprise: organizational requirements and development life-cycle". Journal of Intelligent Manufacturing (2000) 11, 253-270.

29. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (6:00- 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gabrielle McCormick  
Patent Examiner  
Art Unit 3629

